

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

**Complaint of Verizon New England, Inc.
D/b/a/ Verizon Massachusetts Concerning
Customer Transfer Charges Imposed
By Broadview Networks, Inc.**

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D.T.E. 05-04

BROADVIEW NETWORKS, INC.

D.T.E. 05-04

TESTIMONY

WITNESSES:

**PAUL PENNISI
REBECCA SOMMI**

MAY 23, 2005

1 **INTRODUCTION, QUALIFICATIONS AND PURPOSE OF TESTIMONY**

2

3 Q. MR. PENNISI, PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

4 A. My name is Paul Pennisi. My business address is 45-18 Court Square, Long
5 Island City, New York 11101.

6

7 Q WHAT IS YOUR OCCUPATION?

8 A I am Managing Director – Operations for Broadview Networks, Inc.
9 (“Broadview”)

10

11 Q WHAT ARE YOUR RESPONSIBILITIES IN THIS POSITION?

12 A I oversee the migration of customers – including customer acquisitions and
13 customer losses -- between Broadview and other carriers, including the various
14 Verizon operating companies and competitive local exchange carriers (“CLECs”).
15 My responsibilities include establishing, maintaining and enhancing processes to
16 facilitate customer migration among carriers, including Broadview’s Web Center.

17

18 Q WOULD YOU DESCRIBE YOUR BUSINESS AND EDUCATION
19 BACKGROUND.

20 A I have been with Broadview for seven years, joining the Company shortly after its
21 inception. During my tenure at Broadview, I have been involved in virtually all
22 aspects of customer care, including provisioning, repair, MACs and customer
23 service. Prior to joining Broadview, I was employed by NYNEX, working in its

24

1 New Customer Installation Center as an Associate and a Manager. I hold a BS in
2 Economics and a BA in Mathematics from Binghamton University.

3

4 R. MS. SOMMI, PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

5 B. My name is Rebecca Sommi. My business address is 400 Horsham Road, Suite
6 130, Horsham, Pennsylvania 19044.

7

8 Q WHAT IS YOUR OCCUPATION?

9 A I am Vice President – Operations Support for Broadview Networks, Inc.
10 (“Broadview”)

11

12 Q WHAT ARE YOUR RESPONSIBILITIES IN THIS POSITION?

13 A I am responsible for Broadview’s contractual and operational relationship with
14 Verizon, Broadview vendor management, and the establishment an monitoring of
15 internal Broadview metrics. I am directly involved in the selection, negotiation
16 and implementation of vendor facilities for Broadview, including the purchase of
17 interoffice transport. I am also responsible for supporting Broadview’s public
18 policy advocacy before federal and state regulatory commissions.

19

20 Q WOULD YOU DESCRIBE YOUR BUSINESS AND EDUCATION
21 BACKGROUND.

22 A Prior to joining Broadview in 1999, I was employed by Eastern TeleLogic
23 Communications for ten years initially as Manager of Marketing and ultimately as

1 Director of Regulatory Affairs. I began my career with Bell Telephone Company
2 of Pennsylvania in 1982, holding various sales and marketing positions. I hold a
3 BA in Mathematics from Lafayette College.

4

5 Q WHAT IS THE PURPOSE OF THIS TESTIMONY?

6 A The purpose of this Testimony is to address the various issues raised by Verizon
7 Massachusetts (“Verizon”) in its Complaint challenging the lawfulness of
8 Broadview’s Service Transfer Charges, as well as the Direct Testimony submitted
9 in support of that Complaint.

10

11 Q WHAT PORTIONS OF THIS TESTIMONY ARE EACH OF THE WITNESSES
12 RESPONSIBLE FOR?

13 A Each witness has reviewed and concurs with the entirety of this Testimony, but
14 has primary responsibility for certain sections of this Testimony. Mr. Pennisi is
15 responsible for pages 3 - 13 of this Testimony. Ms. Sommi is responsible for
16 pages 13 - 18 of this Testimony.

17

18 **BROADVIEW’S SERVICE TRANSFER CHARGES**

19 Q PLEASE DESCRIBE BROADVIEW’S SERVICE TRANSFER CHARGES

20 A Broadview’s Service Transfer Charges are set forth in Section 9.1 of its Tariff
21 M.D.T.E. No. 2. A Service Transfer Charge applies “when a customer
22 disconnects local exchange service from . . . Broadview and switches to the
23 requesting local exchange carrier” (“LEC”). Broadview’s Service Transfer

1 Charges are comprised of an “Electronic Processing” charge and a “Manual
2 Processing” charge. The former -- \$1.02 -- applies when the requesting LEC
3 avails itself of Broadview’s Web Center. The latter -- \$15.39 -- applies when the
4 requesting LEC declines to utilize this electronic interface.

5

6 Q ARE BROADVIEW’S SERVICE TRANSFER CHARGES MODELED ON
7 PARTICULAR VERIZON CHARGES?

8 A Yes. The Electronic Processing charge is modeled on Verizon’s Service Order
9 Charge. The Manual Processing charge is modeled on Verizon’s Manual
10 Intervention Surcharge.

11

12 Q WHY DID BROADVIEW ELECT TO MODEL ITS SERVICE TRANSFER
13 CHARGES ON VERIZON’S SERVICE ORDER CHARGE AND MANUAL
14 INTERVENTION SURCHARGE?

15 A Like Verizon’s Service Order Charge and Manual Intervention Surcharge,
16 Broadview’s Service Transfer Charges recover costs associated with activities
17 undertaken by Broadview on behalf, and for the benefit, of requesting LECs.
18 These costs, as well as the activities associated with them, are comparable to
19 those for which Verizon assesses Service Order Charges and Manual Intervention
20 Surcharges.

21

22 Q WOULD YOU PLEASE ELABORATE?

23 A Let me first highlight the comparability of costs and activities associated with

1 Verizon's Manual Intervention Surcharge and Broadview's Manual Processing
2 Service Transfer Charge. Verizon's Manual Intervention Surcharge "appl[ies]
3 when the electronic ordering system is not used to place an order for services."¹
4 In other words, a Manual Intervention Surcharge is levied by Verizon if a
5 mechanized interface is available and "a CLEC chooses not to submit an order
6 electronically."² For example, Verizon charges a Manual Intervention Surcharge
7 if a CLEC submits a request by facsimile, rather than through an electronic
8 interface. The Manual Intervention Surcharge recovers "[t]he costs . . . of the
9 activity required for a Verizon service representative at the TISOC to receive and
10 translate a local service request ("LSR") from a CLEC and to respond manually
11 with a positive confirmation of order acceptance."³

12 Broadview's Manual Processing Service Transfer Charge likewise is
13 intended to recover the additional costs Broadview incurs when a requesting
14 carrier declines to utilize Broadview's electronic processes when requesting a
15 customer service record ("CSR") and when submitting, reviewing, modifying,

¹ Verizon New England Inc. Tariff M.D.T.E., No. 17, Part A, § 3.3.2.

² Non-Recurring Cost Testimony (Witness Bruce F. Meacham) (at p. 16) submitted by Verizon Massachusetts (Cost Witness Bruce F. Meacham) in D.T.E. 01-20, *Investigation by the Department on its Own Motion into the Appropriate Pricing, Based upon Total Element Lone-Run Incremental Costs, for Unbundled Network Elements and Combinations of Unbundled Network Elements, and the Appropriate Avoided Cost Discount for Verizon New England, Inc. d/b/a Verizon Massachusetts' Resale Services in the Commonwealth of Massachusetts*, on May 4, 2001.

³ Non-Recurring Cost Testimony (Witness Bruce F. Meacham) (at p. 16) submitted by Verizon Massachusetts (Cost Witness Bruce F. Meacham) in D.T.E. 01-20, *Investigation by the Department on its Own Motion into the Appropriate Pricing, Based upon Total Element Lone-Run Incremental Costs, for Unbundled Network Elements and Combinations of Unbundled Network Elements, and the Appropriate Avoided Cost Discount for Verizon New England, Inc. d/b/a Verizons Massachusetts' Resale Services in the Commonwealth of Massachusetts*, on May 4, 2001.

1 canceling, and/or confirming the status of a local service request (“LSR”).
2 Broadview supports (and has supported for nearly three years) a “Web Center”
3 which permits Verizon and other CLECs to identify and view CSRs without
4 Broadview’s intervention and to submit, review, modify, cancel and confirm the
5 status of LSRs electronically. Broadview levies a Manual Processing Service
6 Transfer Charge when a carrier declines to use Broadview’s Web Center.
7 Broadview’s Manual Processing Service Transfer Charge thus recovers costs
8 which a carrier causes Broadview to incur by refusing to take advantage of the
9 most efficient and cost-effective means of interacting with Broadview.

10

11 Q PLEASE ADDRESS THE COMPARABILITY OF COSTS AND ACTIVITIES
12 ASSOCIATED WITH VERIZON’S SERVICE ORDER CHARGE AND
13 BROADVIEW’S ELECTRONIC PROCESSING SERVICE TRANSFER
14 CHARGE.

15 A Verizon’s Service Order Charge recovers the costs associated with the
16 performance of those functions necessary “to issue an order in the TISOC
17 organization resulting from a CLEC request for service,”⁴ and applies anytime a
18 CLEC makes such a request. The Telecom Industry Services Operating Center

⁴ Non-Recurring Cost Model for Unbundled Network Elements (at Exh. A, p. 3) submitted by Verizon Massachusetts (Cost Witness Bruce F. Meacham) in D.T.E. 01-20, *Investigation by the Department on its Own Motion into the Appropriate Pricing, Based upon Total Element Lone-Run Incremental Costs, for Unbundled Network Elements and Combinations of Unbundled Network Elements, and the Appropriate Avoided Cost Discount for Verizon New England, Inc. d/b/a Verizons Massachusetts’ Resale Services in the Commonwealth of Massachusetts*, on May 4, 2001 (“Non-Recurring Cost Model”).

1 (“TISOC”) “is the initial point of contact for the requesting CLEC.”⁵ Verizon
2 describes the functions of the TISOC as follows:

3 “[T]he CLEC’s service order requests are logged and assigned to a
4 representative who examines the request for accuracy and verifies
5 that the request contains all the information necessary to process
6 the order. Errors and further queries related to the order are
7 referred back to the carrier. Upon completion of the LSR review,
8 the order is entered into the appropriate service order system. In
9 addition, the TISOC corrects the order for any inaccurate or
10 missing information and determines whether field surveys are
11 required. The TISOC also issues the orders for termination of
12 service.”⁶

13
14 And the activities that Verizon used to compute the costs associated with a
15 Service Order Charge are described as follows:

16 Receive Local Service Request (LSR) from the CLEC and print,
17 review, type and confirm the order request for new installation
18 and/or account.

19
20 Receive Local Service Request (LSR) from the CLEC and print,
21 review, type and confirm the order request for changes in existing
22 account.

23
24 Respond and/or change CLEC’s pending Local Service Request.⁷

25
26 Broadview’s Electronic Processing Service Transfer Charge recovers costs
27 associated with tasks comparable to those for which Verizon levies a Service
28 Order Charge. When a carrier wins a customer from Broadview, Broadview, at
29 the request of that carrier, provides the carrier with the customer’s CSR through

⁵ Non-Recurring Cost Model at Exh. C, p. 1.

⁶ *Id.* at Exh. C, p. 1.

⁷ Non-Recurring Cost Testimony (at Exh. D, p. 1) submitted by Verizon Massachusetts (Cost Witness Bruce F. Meacham) in D.T.E. 01-20, *Investigation by the Department on its Own Motion into the Appropriate Pricing, Based upon Total Element Lone-Run Incremental Costs, for Unbundled Network Elements and Combinations of Unbundled Network Elements, and the Appropriate Avoided Cost Discount for Verizon New England, Inc. d/b/a Verizons Massachusetts’ Resale Services in the Commonwealth of Massachusetts*, on May 4, 2001 (“Non-Recurring Cost Testimony”).

1 the Broadview Web Center. The requesting carrier, having confirmed the identity
2 of the customer, submits an LSR electronically to Broadview. Broadview reviews
3 the LSR for completeness and accuracy, confirming customer name, address and
4 phone number. The LSR is either confirmed or placed in jeopardy by Broadview
5 for reason of data flaws or modified or cancelled by the requesting carrier. If the
6 LSR is placed in jeopardy, Broadview “queries” back to the requesting carrier for
7 correction, waits for a response, then repeats the process upon receipt of a
8 resubmitted order. Once an LSR is confirmed, Broadview issues a firm order
9 confirmation (“FOC”), having logged and inputted a service order into its internal
10 systems in order to conduct a properly scheduled, confirmed and coordinated
11 disconnection and transfer of the customer. Thereafter, Broadview deletes
12 associated switch translations and facilitates number porting.

13

14 Q HOW DOES A CARRIER ACCESS BROADVIEW’S WEB CENTER?

15 A Broadview’s Web Center is a web-based CSR/LSR site accessible via the
16 Internet. All a requesting carrier need do to utilize Broadview’s Web Center is
17 secure a UserID and a Password from Broadview and log on to
18 www.broadviewnet.com/CLEC.

19

20 Q HAVE YOU PROVIDED ANY MATERIALS DESCRIBING BROADVIEW’S
21 WEB CENTER?

22 A Yes. We’ve attached as Exhibit 1 to the Testimony copies of Broadview’s Web-

23

1 Center Tutorial, as well as descriptions of Broadview's electronic CSR and LSR
2 processes.

3

4 Q DOES VERIZON USE BROADVIEW'S WEB CENTER?

5 A Up until last month and for nearly three years, Verizon had steadfastly refused to
6 utilize Broadview's Web Center, choosing instead to email OBF forms via PDF
7 documents – the email equivalent of faxing.

8

9 Q DO OTHER CARRIERS USE BROADVIEW'S WEB CENTER?

10 A Yes. Roughly 90 carriers have secured UserIDs and Passwords from Broadview,
11 and made use of, Broadview's Web Center.

12

13 Q HOW DID THESE CARRIERS BECOME AWARE OF BROADVIEW'S WEB
14 CENTER?

15 A Broadview notified all carriers, including Verizon, of the availability of the Web
16 Center when it first became available in 2002. Broadview continues to notify
17 carriers of the availability of the Web Center when they manually request CSRs
18 and manually submit LSRs.

19

20 Q VERIZON CLAIMS THAT IT WAS NOT CAPABLE OF USING
21 BROADVIEW'S WEB CENTER IN 2002. DO YOU UNDERSTAND THIS
22 CLAIM?

23 A No. As I noted above, the Web Center is a web-based CSR/LSR site accessible

1 over the Internet. Moreover, again as I noted above, roughly 90 other carriers
2 have been able to use the Broadview Web Center.

3

4 Q VERIZON CLAIMS THAT SUBSEQUENT TO 2002, IT ESTABLISHED
5 ELECTRONIC INTERFACES THAT COULD ACCOMMODATE THE USE
6 OF BROADVIEW'S WEB CENTER. DO YOU KNOW WHAT THESE
7 INTERFACES ARE AND WHEN THEY WERE ALLEGEDLY
8 ESTABLISHED?

9 A No. Broadview asked Verizon for this information and Verizon declined to
10 provide it. We've attached the pertinent Verizon responses to Broadview's
11 discovery requests (Broadview 1-9 and 1-10) as Exhibit 2 to the Testimony.
12 What we do know is that even giving Verizon the benefit of the doubt, it was able
13 for some undisclosed period of time to use the Broadview Web Center and simply
14 declined to do so.

15

16 Q WHAT ADDITIONAL COSTS DID BROADVIEW INCUR WHEN VERIZON
17 REFUSED TO USE ITS WEB CENTER?

18 A Verizon's refusal to use Broadview's Web Center required Broadview to
19 manually retrieve and physically provide to Verizon CSRs which Verizon could
20 otherwise have viewed on-line through Broadview's Web Center simply by
21 clicking "CSR" and entering the required information. Verizon's refusal to use
22 Broadview's Web Center further required Broadview to manually print LSRs and
23 key their contents into Broadview's systems – tasks which would have been

1 accomplished electronically if Verizon had used Broadview's Web Center and
2 simply clicked "LSR" and keyed-in the required information. Verizon's refusal to
3 use Broadview's Web Center also required Broadview to field calls from Verizon
4 verifying order status which status reports would have been available on-line
5 simply by clicking "Review LSR" if Verizon had utilized Broadview's Web
6 Center. Moreover, these additional resource commitments were amplified each
7 time Verizon modified -- either on its own accord or as a result of data flaws
8 identified by Broadview -- or canceled an order, all of which could have been
9 done on-line simply by clicking "Modify LSR" if Verizon had utilized
10 Broadview's Web Center. Each of these many actions required the commitment
11 of personnel resources which Broadview would not have been required to commit
12 if Verizon had utilized the Broadview Web Center.

13

14 Q VERIZON CLAIMS THAT BROADVIEW'S SERVICE TRANSFER
15 CHARGES ARE NOT JUSTIFIED BECAUSE BROADVIEW PERFORMS
16 THE SAME SERVICES WHEN A CUSTOMER DIES OR LEAVES THE
17 AREA AS IT DOES WHEN IT FACILITATES THE MIGRATION OF A
18 CUSTOMER FROM BROADVIEW TO VERIZON. DO YOU AGREE?

19 A No. There are a number of functions that Broadview performs for Verizon in
20 conjunction with a Verizon "winback" that Broadview does not perform when a
21 customer simply disconnects his or her service, either by reason of death,
22 geographic relocation or otherwise. By way of illustration, when a customer
23 simply disconnects his or her service, Broadview does not have to locate, retrieve

1 and transmit a CSR. When a customer disconnects his or her service, Broadview
2 does not have to receive, acknowledge and print LSRs, input into its system the
3 30 odd LSR information fields, and verify the completeness and accuracy of the
4 information submitted. When a customer disconnects his or her service,
5 Broadview does not have to place inaccurate or incomplete LSRs in jeopardy,
6 query back to the submitting carrier for additional or corrected information, and
7 process anew resubmitted LSRs. When a customer disconnects his or her service,
8 Broadview does not have to issue a firm order commitment date (“FOC”) to the
9 carrier. When a customer disconnects his or her service, Broadview does not
10 have to respond to carrier status requests regarding pending LSRs. Each of these
11 functions Broadview performs at the specific request, and for the direct benefit, of
12 the carrier upon which Broadview assesses its Service Transfer Charges.⁸

13
14 Q VERIZON ALSO CLAIMS THAT BROADVIEW DOES NOT PERFORM
15 ANY SERVICES FOR VERIZON WHEN IT FACILITATES THE
16 MIGRATION OF A CUSTOMER FROM BROADVIEW TO VERIZON.
17 ACCORDING TO VERIZON, ALL OF THE SERVICES PERFORMED BY
18 BROADVIEW IN FACILITATING THE MIGRATION OF A CUSTOMER
19 FROM BROADVIEW TO VERIZON ARE FOR THE CUSTOMER. DO YOU
20 AGREE?

21 A No. All of the functions described above – *i.e.*, the functions for which
22 Broadview assesses a Service Transfer Charge -- are performed at the request, and

⁸ Other tasks Broadview performs when facilitating the migration of a customer to another carrier are the same as those that Broadview performs when a customer simply disconnects his or her service. These tasks include performing switch translations, releasing the telephone number through NPAC, unlocking the E911 database, and removing the directory listing.

1 for the direct benefit, of Verizon. It is Verizon that requests the CSR. It is
2 Verizon that submits the LSR. It is Verizon that Broadview deals with when the
3 information on the LSR submitted by Verizon is incomplete or inaccurate. It is
4 Verizon that requests, and to whom Broadview provides, status reports regarding
5 LSRs Verizon has submitted. And it is to Verizon that Broadview provides the
6 FOC.

7

8 Q AND CERTAINLY A CUSTOMER WOULD NOT DETERMINE WHETHER
9 VERIZON USED BROADVIEW'S WEB CENTER OR REQUESTED CSRS
10 AND SUBMITTED LSRS MANUALLY?

11 A Correct. That determination would be Verizon's alone.

12

13 Q VERIZON CONTENDS THAT THE FEDERAL COMMUNICATIONS
14 COMMISSION'S HOLDINGS IN THE VERIZON VIRGINIA ARBITRATION
15 ARE NOT RELEVANT TO THE DEPARTMENT'S DETERMINATIONS
16 HERE. DO YOU AGREE?

17 A No. In arbitrating various interconnection disputes between Cavalier Telephone,
18 LLC ("Cavalier") and Verizon Virginia, Inc. ("Verizon VA"), the Federal
19 Communications Commission ("FCC") addressed the very matters at issue here
20 and during the course of that arbitration ("Verizon Virginia Arbitration"), the

21

1 validity of Verizon’s various claims here were tested and rejected following a
2 full evidentiary proceeding.⁹

3
4 Q PLEASE ELABORATE.

5 A In the Verizon Virginia Arbitration, the FCC held that to the extent that a CLEC
6 demonstrates that it performs tasks comparable to those performed by Verizon, it
7 would violate Section 251(c)(2)(D) of the Communications Act of 1934, as
8 amended by the Telecommunications Act of 1996 (“Federal Communications
9 Act”)¹⁰ to allow Verizon to assess a charge on the CLEC but disallow a
10 comparable charge by the CLEC on Verizon.¹¹ Cavalier argued in the Virginia
11 Arbitration that when it facilitated the migration of a customer to Verizon
12 Virginia it performed functions comparable to those for which Verizon Virginia
13 assessed Service Order Connect Charges and Installation Charges.¹² Verizon
14 Virginia countered that these functions were “retail functions properly charged to
15 an end-user.”¹³ The FCC “permit[ted] Cavalier to impose a winback charge on
16 Verizon for the tasks it performs when it migrates a customer to Verizon”,¹⁴
17 concluding that Cavalier was responsible for “effecting certain key functions for

⁹ *In the Matter of Petition of Cavalier Telephone LLC Pursuant to Section 252(e)(5) of the Communications Act of Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia, Inc. and for Arbitration*, 18 FCC Rcd 25,887 (CCB released Dec. 12, 2003) (“*Arbitration Order*”) (subsequent history omitted).

¹⁰ 47 U.S.C. § 251(c)(2)(D)

¹¹ *Arbitration Order*, 18 FCC Rcd 25,887 at ¶ 189.

¹² *Id.* at ¶ 198.

¹³ *Id.* at ¶ 201.

¹⁴ *Id.* at ¶ 203.

1 the benefit of Verizon in the course of transferring customers from Cavalier to
2 Verizon.”¹⁵ Elaborating, the FCC declared that “contrary to Verizon’s allegations,
3 the work Cavalier performs in connection with the Verizon winback is not solely
4 for the benefit of Cavalier’s internal records.”¹⁶ And as to the level of the
5 Cavalier charges, the FCC concluded that it was “reasonable to permit Cavalier to
6 charge Verizon the rate Verizon charges it for the same or similar service.”¹⁷
7

8 Q VERIZON CONTENDS THAT THE DEPARTMENT SHOULD FOLLOW A
9 DECISION OF THE NEW YORK PUBLIC SERVICE COMMISSION
10 RATHER THAN THE FCC’S DECISION IN THE VIRGINIA ARBITRATION.
11 DO YOU AGREE?

12 A No. The decision of the New York Public Service Commission (“NYPSC”) in
13 *Complaint of Verizon New York Inc. Concerning Customer Transfer Charges*
14 *Imposed by TC Systems, Inc.*, Case 03-C-0636 (the “Teleport Order”) is
15 inapposite here because it reflects an entirely different set of facts.¹⁸ The *Teleport*
16 *Order* was issued in the context of a rate which mirrored Verizon’s rates for
17 performing hot cuts and was predicated upon a finding that it was Verizon that
18 performed “the lion’s share of the physical network activity necessary for a

¹⁵ *Arbitration Order*, 18 FCC Rcd 25,887 at ¶ 204. .

¹⁶ *Id.*

¹⁷ *Id.* at ¶ 205, fn. 679.

¹⁸ *Complaint of Verizon New York Inc. Concerning Customer Transfer Charges Imposed by TC Systems, Inc.*, Case 03-C-0636 (NYPSC February 13, 2004).

1 customer transfer.”¹⁹ The ruling further reflected the NYPSC’s finding that the
2 tasks the charging carrier performed in facilitating the transfer of a customer to
3 Verizon were “not analogous to most of the tasks Verizon perform[ed]” in
4 undertaking a hot cut.²⁰

5
6 Q DOES THE DECISION OF THE PENNSYLVANIA PUBLIC SERVICE
7 COMMISSION REFERENCED BY VERIZON SUFFER FROM THE SAME
8 LACK OF RELEVANCE AS THE NYPSC’S TELEPORT DECISION?

9 A Yes.

10

11 Q VERIZON CLAIMS THAT BROADVIEW IS PROHIBITED BY THE FCC
12 FROM RECOVERING NUMBER PORTABILITY COSTS IN ITS SERVICE
13 TRANSFER CHARGES. DOES BROADVIEW CHARGE VERIZON FOR
14 PORTING NUMBERS?

15 A No.

16

17 Q VERIZON CLAIMS THAT BROADVIEW IS REQUIRED TO PROVIDE
18 COST SUPPORT FOR ITS SERVICE TRANSFER CHARGES. DO YOU
19 AGREE?

20 A No. As the FCC has made clear, a CLEC may charge Verizon “the rate Verizon
21 charges it for the same or similar service.”²¹ The FCC explained that” rates

¹⁹ *Complaint of Verizon New York Inc. Concerning Customer Transfer Charges Imposed by TC Systems, Inc.*, Case 03-C-0636 at 5.

²⁰ *Id.*

²¹ *Arbitration Order*, 18 FCC Rcd 25,887 at ¶ 205, fn. 679.

1 charges by competitors are presumed reasonable as long as they do not exceed the
2 comparable rate charged by the incumbent.”²² And, as I noted previously, the
3 functions whose costs are recovered by Broadview’s Service Transfer Charges are
4 comparable to those for which Verizon assesses Service Order Charges and
5 Manual Intervention Surcharges.

6

7 Q VERIZON CONTENDS THAT THE BROADVIEW SERVICE TRANSFER
8 CHARGES ARE NOT COMPARABLE TO VERIZON’S SERVICE ORDER
9 CHARGE AND MANUAL INTERVENTION SURCHARGE BECAUSE THE
10 BROADVIEW CHARGES ARE ASSESSED PER LINE WHILE THE
11 VERIZON CHARGES ARE ASSESSED PER ORDER. DO YOU AGREE?

12 A No. The distinction drawn by Verizon is one without meaning. In Massachusetts,
13 the average number of lines per Verizon “winback” from Broadview is only
14 marginally greater than one – *i.e.*, 1.49.

15

16 Q HAS VERIZON PAID ANY OF THE SERVICE TRANSFER CHARGES
17 ASSESSED ON IT BY BROADVIEW?

18 A No.

19

20

²² *Arbitration Order*, 18 FCC Rcd 25,887 at ¶ 205, fn. 679.

1 Q VERIZON CLAIMS THAT IT IS NOT REQUIRED TO PAY BROADVIEW'S
2 SERVICE TRANSFER CHARGES BECAUSE THEY ARE RESIDENT IN
3 BROADVIEW'S ACCESS TARIFF. DO YOU AGREE?

4 A No. Broadview's Tariff M.D.T.E. No. 2 at Section 9.1 expressly provides that
5 Broadview's Service Transfer Charges apply to any "requesting local exchange
6 carrier." The ambiguity that Verizon seeks to create simply does not exist.
7

8 Q VERIZON ALSO CLAIMS THAT IT IS NOT REQUIRED TO PAY
9 BROADVIEW'S SERVICE TRANSFER CHARGES BECAUSE IT DISPUTED
10 THE CHARGES. DO YOU AGREE?

11 A No. Carriers may dispute the applicability of tariffed charges, asserting for
12 example that the service for which the charge was applied was not provided or
13 that the charge was applied for the wrong service. Carriers may not, however,
14 dispute under interconnection agreements the lawfulness of tariffed charges.
15 Tariffed rates, after all, bind both carriers and customers with the force of law.
16 As Verizon has recognized in its Complaint, the Department's processes are the
17 exclusive vehicle for challenging the lawfulness of tariffed charges.
18

19 Q DOES THIS CONCLUDE YOUR TESTIMONY?

20 A Yes.

EXHIBIT 1

Broadview Web-Center Tutorial

Broadview CSR Process

Broadview LSR Process

EXHIBIT 2

Verizon Responses of Broadview Interrogatories 1-9 and 1-10

